16.

A True Copy of the Indictment which is preferred against Archibald Earl of Argile, for High-Treason, Who is to be Tryed on Monday the 12th. day of this instant December 1681 as it was taken from the Original Records.

Published for the satisfaction of the People.

ARCHIBALD, Earl of *Argile*, you are Indicted and Accused, That albeit by the Common Law of all well-governed Nations, and by the municipal Laws and Acts of Parliament of this Kingdom, and particularly by the 21 cap. Stat. 1. *Rob.* 1. and by the 43 Act of Parl. 2 *Jac.* 1. and by the 83 Act of Parl. 5 *Jac.* 6. and the 134 Parl. 14 *Jac.* 6. and by the 282 Act Parl. 8 *Jac.* 6. all Leising-makers, and sellers of them, are punishable with tinsel of Life and Goods. Likewise by the 7 Act Parl. 7 *Jac.* 6. it is Statute, That no man interpret the Kings Statutes otherwise than the Statutes bear, and to the intent and effect that they were made for, and as the makers of them understood; And whoso does to the contrary, to be punished at the Kings Will. And by the 1 Act Parl. 1 *Jac.* 6. it is Statute, That none of His Majesties Subjects presume or take upon hand publickly to declare, or privately to speak, or write any purpose of Reproach against His Majesties Person, Government or State; or to deprave his Laws and Acts of Parliament, or misconstruct his Proceedings, whereby any misliking might be moved betwixt His Highness, his Nobility, and his loving Subjects in time coming, under pain of Death, certifying them that do on the contrary, they shall be reputed as seditious and wicked Instruments, Enemies to His Highness, and the Commonweal of this Realm, and the said pain of Death shall be executed against them with all vigour, to the Example of others. And by the 2d. Act Sess 2. Parl. 1. *Car* 2. it is Statute, That whoever shall by writing, Libelling or Remonstrating, express, publish or declare any Words or Sentences to stir up the People to the dislike of His Majesties Royal Prerogative and Supremacy in Causes Ecclesiastical, of the Government of the Church by Archbishops and Bishops, as it is now established by Law, under the pain of being uncapable to exercise any Office, Civil, Ecclesiastical or Military, within this Kingdom, in any time coming; Likewise by the Fundamental Laws of this Nation, and by the 128 Act Parl. 8 *Jac.* 6. it is declared, That none of His Majesties Subjects presume or take upon hand to impugne the Dignity and Authority of the three States of Parliament, or to procure innovation or diminution of their power and Authority, under the pain of Treason; And it is much more Treason in any of his Majesties Subjects to presume to alter Laws already made, or to make new Laws, or add any part to any Law by their own Authority, that being to assume the Legislative Power to themselves, which is His Majesties best and most incommunicable Prerogative; Yet true it is, that albeit, His Sacred Majesty did bestow upon you the said *Arch.* Earl of *Argile* These Vast Lands, Jurisdictions, and Superiorities, justly forfeited to His Majesty by the Crimes of your deceased Father, preferring your Family to These, who had Served His Majesty in the late Rebellion against it; But also Pardoned and Remitted to them the Crimes of Leising, Making and Misconstructing of His Majesty and the Parliaments proceedings against the very Laws above-written, whereof you were found Guilty, and condemned to die therefore, by the High Court of Parliament *Anno* 1662. And raised you to the Title and Dignity of an Earl, and of being a Member in all His Majesties Jurisdictions. Notwithstanding of all these and many other favours, to you the said *Arch.* Earl of *Argile*, being put to the Lords of His Majesties Privy Council to take the Test appointed by the Act of the last Parliament, to be taken by all persons in publick Trust; instead of taking the said Test, and Swearing the same in the plain Sense and Meaning of the Words, without Equivocation, Mental Reservation, or Evasions, whatsomever, you Declare against, and Defame the said Act, and having to the end you might corrupt others by your pernitious Sense, drawing the same in a Libel, of which Libel, you dispersed, and gave abroad Copies, whereby evil example was given to the Kings proceedings, at a time especially when his Majesties Subjects were expecting that submission should be given to the said Test; and being desired the next day to take the same as one of the Commissioners of his Majesties Treasury, then did give in to the Lords of His Majesties Privy Council, and owned twice in plain Judgment before them, the said Defamatory Libel against the said Test and Act of Parliament, declaring that ye had considered the said Test, and was desirous to give obedience as far as ye could, whereby ye clearly insinuate, that ye were not able to give full obedience.

In the Second Article of which Libel ye declare that ye are confident that the Parliament never intended to impose contradictory Oaths whereby to abuse the people with the belief that the Parliament had been so impious as really and actually to impose contradictory Oaths, and so ridiculous as to have made an Act of Parliament (which should be most deliberate of all Humane Actions) quite contrary to their own intentions; After which ye subsumed, contrary to the nature of all Oaths, and to the Acts above-cited, that every man must explain it for himself, and take it in his own sence;

then

then the Oath is impoſed to no purpoſe, for the Legiſlator cannot be ſure that the Oath impoſed by him will bind the Taker according to the deſign and intent for which he appointed it, and the Legiſlative Power is taken from the Impoſer, and ſettled upon the Taker of the Oath, and ſo he is allowed to be the Legiſlator, which is not only an open and violent depriving of His Majeſties Acts of Parliament, but is likewiſe a ſettling of the Legiſlative Power upon private Subjects who are to take ſuch Oaths. In the 3. Article of the ſaid Paper, you declared, That ye take the Teſt in as far only as it is conſiſtent with it ſelf, and the *Proteſtant Religion*, by which you maliciouſly intimate to the people that the ſaid Oath is inconſiſtent with it ſelf and the *Proteſtant Religion*, which is not only a downright depraving of the ſaid Act of Parliament, but is likewiſe a miſconſtruing of His Majeſty and the Parliaments Proceedings, and a miſrepreſenting to the people in the higheſt degree, and in the tendereſt points wherein they be concerned, and implying that the King and Parliament have done things inconſiſtent with the *Proteſtant Religion*, for ſecuring of which that Teſt was particularly invented. In the 4th Article you expreſly declared, That you mean not by taking the ſaid Teſt to bind up your ſelf from wiſhing or endeavouring any alteration that ye ſhall think for the advantage of the Church or State; whereby, although it was deſigned by the ſaid Act of Parliament and Oath, that no man ſhould endeavour any alteration of the Government, either in Church or State, as it is now eſtabliſhed; and the duty of all good Subjects in humble manner to obey the preſent Government; yet you not only declared your ſelf, but by your example invited others to think themſelves looſed from that obligation, and that it is free for them to make any alteration in either as they think fit, concluding your whole Paper with theſe words, [*And this I underſtand as a part of my Oath*] which is not only an invaſion upon the Legiſlative Power, as if it were lawful for you to make to your ſelf any Act of Parliament, ſince he that can make any part of an Act, can make the whole Power and Authority in both being the ſame. Of the whilk Crimes above mentioned, you the ſaid *Archibald* Earl of *Argile* are notar, art and part, whilk being found by Aſſize, you ought to be puniſhed with pains of Death, forfeiture of Life, Lands, and Eſcheat of Goods, to the terrour of others to do and commit the like thereafter.

Here follows a Liſt of the Aſſizers, or Jurors.

Marquis of *Montroſe.*
Earl of *Linlithgow.*
Earl of *Wintone.*
Earl of *Strathmore.*
Earl of *Roxbrough.*
Earl of *Haddingtone.*
Earl of *Dumfrice.*
Earl of *Arlie.*
Earl of *Marr.*
Earl of *Hume.*
Earl of *Pearth.*
Earl of *Dumfermling.*
Earl of *Dalhouſe.*
Earl of *Sutheſk.*
Earl of *Tredell.*
Earl of *Middletown.*
Lord Roſs.

Lord Elibank.
Lord Dunkel.
Lord Livingſtone.
Lord Sinkler.
Lord Lindoort.
Lord Rollo.
Lord Brantiſland.
Laird Purie.
Laird Leſmore.
Laird Hall-yeards.
Laird Hilltown.
Laird Ormeſtown.
Laird Touch.
Maiſter of *Ramſirnock.*
Maiſter of *Roſs.*
Maiſter of *Burly.*
Laird Geſford.

Sir *Robert Daliel* of *Glennel.*
Laird Ballgmain.
Laird Parck Gordon.
Sir *Will. Nicolſon* of that *Ilk.*
Laird Lamingtown.
Laird Claverhouſe.
Laird Longformegouns.
Mr. *Cranſis Magomrie*, Brother to the *Earl* of *Eglington.*
Maiſter of *Sallmirnoch.*
Sir *Andrew Ramſy* of *Abbis-hall.*
Laird Haning.
Laird Greddan-kar.
Laird Londine.
Sir *William Paterſon.*

The Names of the Witneſſes.

Pat. Menzies, Lord Regiſter, *Hugh Strivingſon*, &c.

Here follows his Explanation of the TEST.

I have conſidered the *Teſt*, and am very deſirous to give Obedience ſo far as I can; I am confident the Parliament never intended to impoſe contradictory Oaths, and therefore I think no Man can explain it but for himſelf, and conſtrue it as it is genuine and agree in its own ſenſe; and I take it ſo far as it is conſiſtent with it ſelf and the *Proteſtant Religion*: And in this declare I mean not to bind up my ſelf in my Station, and in a lawful way, to wiſh and endeavour any alteration I think to the advantage of *Church* or *State*, and repugnant the *Proteſtant Religion*, and my *Loyalty*: and this I underſtand as a part of my Oath.

The day of Complenzey 1681. of December

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